

ORIGINAL

December 24 2009

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

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FILED

DEC 24 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Attorney for Respondent

BEFORE THE COMMISSION ON PRACTICE OF
THE SUPREME COURT OF THE STATE OF MONTANA

IN THE MATTER OF) Supreme Court Cause No. PR09-0621
SOLOMON S. NEUHARDT,) ODC File Nos. 08-189, 09-005 and 09-059
)
An Attorney at Law,) ANSWER TO COMPLAINT OF THE
) OFFICE OF DISCIPLINARY
Respondent.) COUNSEL

COMES NOW Solomon S. Neuhardt (Neuhardt), and for his Answer to the
Complaint of the Office of Disciplinary Counsel, states as follows.

1. Answering ¶ 1 of the Complaint, Neuhardt admits that he was
admitted to the practice of law in the State of Montana in 2001 and took the

required oath, the verbatim contents of which he does not remember.

2. Answering ¶ 2 of the Complaint, Neuhardt admits that the Montana Supreme Court has approved and adopted Rules of Professional Conduct which govern the ethical conduct of attorneys. But, Neuhardt is without information sufficient to form a belief as to which particular Rules of Professional Conduct may have been in effect at the differing times mentioned in the Complaint, as the Complaint does not in all instances provide a date upon which the alleged conduct occurred.

3. Answering ¶ 3 of the Complaint, Neuhardt realleges and incorporates ¶¶ 1 and 2 of the Answer, as though fully incorporated herein.

4. Answering ¶ 4 of the Complaint, Neuhardt admits that Harold Davis, III, was cited for possession of paraphernalia and discharging a firearm within city limits on or about April 18, 2007, but is without sufficient recollection to form an opinion as to the exact date. Neuhardt admits that Harold Davis, III, hired Neuhardt on or about May 3, 2007, to represent him on these charges.

5. Answering ¶ 5 of the Complaint, Neuhardt admits that the Billings Municipal Court, on or about May 18, 2007, opened a case file and issued a Notice of Appearance, but is without sufficient information to form a belief as to the details set forth in ¶ 5 of the Complaint, and therefore, denies the details set forth

therein.

6. Answering ¶ 6 of the Complaint, Neuhardt admits that an Omnibus Hearing was held on or about June 26, 2007, during which a jury trial was set on or about July 26, 2007.

7. Answering ¶ 7 of the Complaint, Neuhardt admits that he did fail to properly calendar the trial for Mr. Davis set on or about July 26, 2007, and, therefore, sought a continuance. Neuhardt tendered a waiver of speedy trial signed by Mr. Davis, attached to the motion. Neuhardt does not recollect at this time whether the Court denied the motion or granted the motion.

8. Answering ¶ 8 of the Complaint, Neuhardt admits that neither he nor Davis appeared at the trial and is without memory sufficient to form a belief as to the remaining allegations and, therefore, denies the remaining allegations contained therein.

9. Answering ¶ 9 of the Complaint, Neuhardt denies the allegations contained therein.

10. Answering ¶ 10 of the Complaint, Neuhardt denies the allegations contained therein.

11. Answering ¶ 11 of the Complaint, Neuhardt denies the allegations contained therein.

12. Answering ¶ 12 of the Complaint, Neuhardt realleges and incorporates ¶¶ 1 through 11 of the Answer, as though fully incorporated herein.

13. Answering ¶ 13 of the Complaint, Neuhardt admits it is true that Jim Desjarlais did hire Neuhardt to assist him regarding a wrongful death suit which resulted in the death of Desjarlais mother, Betty Desjarlais.

14. Answering ¶ 14 of the Complaint, Neuhardt admits that the claim arose in North Dakota and admits that, as a result of the claim arising in North Dakota, Neuhardt arranged for Vogel Law Firm of Grand Forks, North Dakota to handle the matter, and further alleges that Vogel competently handled the matter to the best of his knowledge.

15. Answering ¶ 15 of the Complaint, Neuhardt admits the allegations contained therein.

16. Answering ¶ 16 of the Complaint, Neuhardt admits the allegations contained therein.

17. Answering ¶ 17 of the Complaint, Neuhardt admits the allegations contained therein.

18. Answering ¶ 18 of the Complaint, Neuhardt admits the allegations contained therein.

19. Answering ¶ 19 of the Complaint, Neuhardt admits that the attorney-

client relationship ended between Desjarlais and Neuhardt with respect to both the wrongful death case and the Berkland case. Neuhardt admits, upon information and belief, that Desjarlais retained attorney Paula Saye-Dooper to represent him on both matters.

20. Answering ¶ 20 of the Complaint, Neuhardt's recollection is that he did provide an explanation to Desjarlais as to all money spent out of the trust account, which was an approximate amount of \$1,500.

21. Answering ¶ 21 of the Complaint, Neuhardt denies each and every allegation contained therein.

22. Answering ¶ 22 of the Complaint, Neuhardt admits that, following the termination of Neuhardt's representation, Desjarlais and Saye-Dooper requested Neuhardt give Saye-Dooper his files, original documents that Desjarlais provided to Neuhardt, and the balance of any funds. Neuhardt has no recollection of any demand for an accounting of funds, although the file should have reflected how the funds were spent.

23. Answering ¶ 23 of the Complaint, Neuhardt admits the allegations contained therein.

24. Answering ¶ 24 of the Complaint, Neuhardt is without sufficient information to form an opinion, as the allegation is too vague, and therefore,

denies the allegations contained therein.

25. Answering ¶ 25 of the Complaint, Neuhardt denies the allegations contained therein.

26. Answering ¶ 26 of the Complaint, Neuhardt realleges and incorporates ¶¶ 1 through 25 of the Answer, as though fully incorporated herein.

27. Answering ¶ 27 of the Complaint, Neuhardt admits generally to the allegations contained therein, but does not have a specific recollection of some of the dates and case numbers.

28. Answering ¶ 28 of the Complaint, Neuhardt admits the allegations contained therein.

29. Answering ¶ 29 of the Complaint, Neuhardt admits that he filed a Motion to Suppress or Dismiss on or about May 2, 2008, and filed a Motion for Extension on or about June 15, 2008, which was never ruled on.

30. Answering ¶ 30 of the Complaint, Neuhardt admits that the State filed its Motion to Dismiss Defendant's Motion to Suppress or Dismiss on or about June 25, 2008, and alleges that the contents of the Motion to Suppress or Dismiss will speak for themselves, but, generally, the State's Motion was that Neuhardt failed to file a Brief in Support of the Motion to Suppress or Dismiss.

31. Answering ¶ 31 of the Complaint, Neuhardt admits that on or about

July 8, 2008, he filed a Brief in Support of Motion to Suppress or Dismiss.

32. Answering ¶ 32 of the Complaint, Neuhardt admits that on or about July 21, 2008, the Court denied the Motion to Suppress or Dismiss.

33. Answering ¶ 33 of the Complaint, Neuhardt admits that on or about August 6, 2008, the Motion for Reconsideration of the Motion to Suppress or Dismiss was filed. Neuhardt admits that on or about August 21, 2008, the Court denied the motion, stating, “[t]he Defendant’s extreme tardiness in filing a supporting brief, and total disregard of the Uniform District Court rules (*sic*), supports a dismissal of the Motion to Suppress or Dismiss and warrants a denial of the Defendant’s Motion for Reconsideration.”

34. Answering ¶ 34 of the Complaint, Neuhardt admits the allegations contained therein.

35. Answering ¶ 35 of the Complaint, Neuhardt denies the allegations contained therein.

36. Answering ¶ 36 of the Complaint, Neuhardt denies the allegations contained therein.

WHEREFORE, in consideration of the foregoing, Neuhardt prays that the matter be dismissed.

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RESPECTFULLY submitted this 22 day of December, 2009.

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By: _____



Mark D. Parker
Attorney for Respondent

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing document was served upon opposing counsel of record by causing the same to be deposited in the U.S.

Mail, postage prepaid, addressed as follows:

Shaun R. Thompson
Office of Disciplinary Counsel
P.O. Box 1099
Helena, MT 59624-1099

this 22nd day of December, 2009.

